

REMARKS

The following remarks are prepared in response to the Office Action dated March 29, 2011. Claims 1-4 and 6-20 remain pending in the application after entry of this response. Claim 5 has been cancelled. Claims 17-20 have been withdrawn from consideration. Claim 21 has been newly added, and adds no new matter to the application. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Election/Restrictions

In response to the Examiner's restriction requirement, Applicant hereby elects Group I, directed to claims 1-16, without traverse.

Objections to the Abstract

The abstract of the disclosure was objected to on the ground that it is the cover sheet of a PCT application. In response to the objection to the abstract, Applicant has deleted the previous abstract and submitted a new abstract. Applicant respectfully submits the new abstract adds no new matter to the application. Applicant respectfully requests the objection to the abstract be withdrawn.

Claim Rejections – 35 U.S.C. § 102

Claims 1-7 and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Nakamura* (U.S. Pat. No. 4,958,791). Applicant respectfully traverses.

Applicant has amended independent claim 1 to recite elements not disclosed in *Nakamura*. In particular, Applicant has amended claim 1 to recite “a head end structured to allow a part of said tail end to be drawn through said head end to position said tail end within said head end.”

Support for amended claim 1 is found throughout the originally filed disclosure, for example, in paragraph [0026] (referring to U.S. Pub. No. 2009/0082793), originally filed claim 20, and Figures 2 and 3 of the specification. Paragraph [0026] states: “the tail end 10a is drawn through the buckle 20 until the tooth 14 and the notch 22 engage or interlock and prevent the gastric band 12 from opening.” (Emphasis added.) In addition, originally filed claim 20 recites a step, in part, of: “releasably securing the gastric band by drawing the tail end through the head end” (Emphasis added.) Further, Figure 2 illustrates a cavity in the head end 10b to allow the tail end 10a to be drawn through the head end 10b. Figure 3 illustrates the tail end 10a extending through the head end 10b, after it has been drawn through the head end 10b. Thus, support for amended claim 1 is found throughout the originally filed disclosure.

Nakamura discloses tying means which are “applicable not only to electrical equipment and agricultural/horticultural tools of relatively large sizes but also to those of relatively small sizes.” *See col. 1, ln. 67 – col. 2, ln. 3.* The tying means include ends of an annular member 1, with one end having a “parallel arrangement of a receiving hook 2 and an engaging hook 3’, and the other end with a parallel arrangement of an engaging hook 3 and a receiving hook 2’.” *See col. 3, lns. 3-6; see also Figs. 1 and 2.* When the ends of the annular member 1 are joined, the respective engaging hooks 3, 3’ are not drawn through the respective receiving hooks 2, 2’. *See Fig. 2.* Rather, upon joining the ends, the “engaging hook 3 or 3’ is then located in between the bifurcated lower and upper members 22 and 21 or the bifur[ca]ted lower and upper members 22['] and 21' forming the receiving hook 2 or 2'.” *See col. 3, lns. 14-18.*

Figure 2 of *Nakamura* illustrates a side view of the annular member 1, in which the engaging hook 3 is shown to not be drawn through the receiving hook 2. Rather, the engaging hook 3 is seated between lower and upper members 22 and 21 forming the receiving hook 2.

Nakamura discloses that when the ends of the annular member 1 are locked together, then the engaging hooks 3, 3' abut against adjacent receiving hooks 2', 2, to "thereby prevent any disengagement of the receiving and engaging hooks due to transverse slipping." *See col. 3, lns. 42-44.* *Nakamura* does not disclose the engaging hooks 3, 3' are drawn through the receiving hooks 2, 2' to further secure the connection of the hooks, because the abutment of the adjacent hooks serves to prevent against transverse slippage. *See col. 4, lns. 11-15.*

Accordingly, *Nakamura* fails to disclose at least one limitation recited in claim 1, including "a head end structured to allow a part of said tail end to be drawn through said head end to position said tail end within said head end."

For at least the reasons stated above, Applicant respectfully requests that the rejection of independent claim 1 under 35 U.S.C. § 102(b) be withdrawn. Claim 1 is novel, non-obvious and patentably distinguishable over *Nakamura* and should be allowable.

Regarding dependent claims 2-4, 6-7 and 10, they each depend from and further limit independent claim 1, which is believed to be patentable, and thus these dependent claims should each also be patentable over *Nakamura*, for at least the reasons stated above in regard to claim 1.

Hence, Applicant respectfully requests the rejection of claims 1-7 and 10 to *Nakamura*, under 35 U.S.C. § 102(b), be withdrawn.

Claims 1, 2, 7-9 and 11-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Vincent* (U.S. Pat. No. 5,601,604). Applicant respectfully traverses.

Vincent fails to disclose at least one limitation in claim 1, including "a releasable locking means structured to releasably secure said head end to said tail end."

Vincent discloses a gastric band 10 having "a head end 12 and a tail end 13." *See col. 2, lns. 35-37; see also Figs. 1 and 2.* The head end includes a buckle 19 that attaches to the tail end

13. *See col. 3, lns. 56-59.* However the ends 12, 13 of the gastric band 10 do not include “a releasable locking means structured to releasably secure said head end to said tail end.” Rather, the buckle 19 is structured such that when the ends are joined, “the buckle and the tail are irreversibly affixed to one another.” *See col. 2, lns. 56-59 (emphasis added).* Figure 2 of *Vincent* illustrates the tail end 13 of the gastric band 10 is tapered so that it can pass through the buckle 19, but may not then be released from the buckle 19.

Accordingly, *Vincent* fails to disclose at least one limitation recited in claim 1, including “a releasable locking means structured to releasably secure said head end to said tail end.”

For at least the reasons stated above, Applicant respectfully requests that the rejection of independent claim 1 under 35 U.S.C. § 102(b) be withdrawn. Claim 1 is novel, non-obvious and patentably distinguishable over *Vincent* and should be allowable.

Regarding dependent claims 2, 7-9 and 11-17, they each depend from and further limit independent claim 1, which is believed to be patentable, and thus these dependent claims should each also be patentable over *Vincent*, for at least the reasons stated above in regard to claim 1.

Hence, Applicant respectfully requests the rejection of claims 1, 2, 7-9 and 11-17 to *Vincent*, under 35 U.S.C. § 102(b), be withdrawn.

Applicant has additionally added new dependent claim 21. Applicant respectfully submits no new matter has been added, and claim 21 is patentable and in condition for allowance for at least the reasons provided above.

Support for the newly added claim can be found throughout the specification. For example, support for claim 21 can be found in paragraph [0028] and Figures 1 and 2. Paragraph [0028] states the interlocking tooth and notch “are disengaged by pulling on the release tab 24.” Figures 1 and 2 illustrate that if the release tab 24 were pulled, then the tooth 14 would lift the

notch 22 over the tooth 14, to allow the release of the tail end 10a from the head end 10b.

CONCLUSION

The application is deemed to be in condition for allowance and an expedited notice to this effect is respectfully requested.

If there are any questions with regards to this response, or if the Examiner believes that a telephone interview will help further prosecution of the application, the Examiner is invited to contact the undersigned at the listed telephone number.

Very truly yours,

SNELL & WILMER L.L.P.



Ketan S. Vakil
Registration No. 43,215
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689
Phone: 714.427.7405
Fax: 714.427.7799